IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.323 OF 2007

Jayabharat Credit Limited .. Petitioners.
Versus
Aulad Hussain & Anr. .. Respondents.

ALONGWITH
ARBITRATION PETITION NO.324 OF 2007

Jayabharat Credit Limited .. Petitioners.
Versus
Aulad Hussain & Anr. .. Respondents.

Mr.D.V.Merchant for petitioners.
None for respondents.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 7th September, 2007.

P.C.

1. Heard Mr.Merchant, learned Senior Counsel, appearing for the petitioners.

2. On 30th August, 2007, this matter was mentioned before me by Mr.Merchant, pointing out the urgency with regard to vehicles in question.

3. I had noted the submissions of Mr.Merchant and perused page 27 of the petition as well.

4. A limited ad-interim order was granted so as to enable Mr.Merchant to serve the respondents and apply for further reliefs in case the respondents do not disclose the details pertaining to the vehicle or fail to appear before this Court on the returnable date.

5. Mr.Merchant has filed an affidavit of the Advocate’s clerk and it states that the petition copies together with annexures were served upon the respondents at their address. Although the packet has been accepted by an adult member and the acceptance is duly endorsed on the Advocate’s letter, none has been appearing today.

6. The affidavit of service is taken on record.

7. After perusing the petitions and Agreements with regard to the vehicles so also the clause which empowers the petitioners to re-possess the vehicles as well and record the undertaking of the respondents that they would be plying the vehicles and not disposing of the same in any manner, this is a fit case where the request of Mr.Merchant with regard to appointment of Court Receiver should be considered.

8. I have perused the petition and the annexures thereto with the assistance of Mr.Merchant, including Clause No.6 of the Agreement and other covenants. A report is also on record with regard to the vehicles. There is a categorical statement made that the petitioners are not being disclosed the whereabouts of the

vehicles but the report indicates that they are being plied outside the State of Maharashtra by the respondents. In such circumstances, it is just and convenient to appoint Court Receiver, High Court, Bombay as a Receiver of the vehicles, which are more particularly, described in prayer clause (a) of the petition with all powers under Order XL Rule I of the Code of Civil Procedure, 1908. However, the Court Receiver, upon taking possession of these vehicles will appoint the respondents as his agent on such terms and conditions as he deems fit and proper, including payment of monthly royalty / compensation. Till Receiver takes possession, there will be an injunction in terms of prayer clause (b).

9. Petitions disposed of.

(S.C.Dharmadhikari, J.)